

CANADA / JUDGMENT

R. v. Goff

2009 BCSC 1621

COURT

Supreme Court of British Columbia

DECIDED

3 November 2009

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2009 BCSC 1621 R. v. Goff IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: R. v. Goff, 2009 BCSC 1621 Date: 20091103 Docket: 87643 Registry: Kamloops Regina v. Andrew Malcolm Goff Ban on Disclosure 486.4(2) CCC Restricted Access Before: The Honourable Mr. Justice Ehrcke Oral Reasons for Sentence Counsel for the Crown: C. L. Elliott Counsel for the Accused: K. Sommerfeld Place and Date of Hearing: Kamloops, B.C. November 3, 2009 Place and Date of Judgment: Kamloops, B.C. November 3, 2009

- [1] THE COURT: Andrew Goff appears before me for sentencing following his guilty plea on July 13, 2009, of Count 3, sexual interference of M.B., contrary to s. 151 of the Criminal Code and Count 5, sexual assault of C.N., contrary to s. 271(1) of the Criminal Code. Parliament has prescribed a maximum penalty of 10 years imprisonment with respect to both offences. For the offence of sexual interference, there is also a minimum penalty of 45 days.
- [2] Both of the complainants are young girls. The families of both girls were friends of Mr. Goff. Both of the complainants referred to Mr. Goff as "Uncle Andy." The circumstances of the offences are not in dispute. With respect to Count 3, Mr. Goff began touching M.B. for a sexual purpose when she was eight years old and continued for two to three years for a total of seven or eight occurrences. The last occurrence was prior to Christmas 2008. It would sometimes happen when Mr. Goff was babysitting. He would have M.B. sit on his lap. He would tickle her chest area under her shirt and then move his hand down under her underwear and rub her vagina.
- [3] With respect to Count 5, Mr. Goff sexually assaulted C.N. starting when she was 9 or 10 and continued until she was 11. The assaults would often begin when Mr. Goff had her sit on his knee. He would then put his hand down her underwear and rub her vagina. On occasion, he inserted his finger into her vagina. He would then open his pants, put her hand on his penis, and tell her to rub. Although she did not know the meaning of the word "ejaculate," she said there was sometimes liquid on her hand after rubbing and she would wash her hands afterwards.

- [4] A pre-sentence report was prepared as well as a psychological assessment. It appears that when being interviewed, Mr. Goff minimized some of the facts and denied digital penetration, but he now admits all the facts as outlined above, and indeed, written admissions of fact have been filed as Exhibit 1.
- [5] Mr. Goff is 41 years old and has no criminal record. His lack of a record and the fact that he has entered guilty pleas are mitigating circumstances. Another important factor in his favour is that he wants to get help for his problems, and indeed, he instructed his counsel that he would prefer to serve his time in a federal institution so that he would have access to the sexual offender programs offered in the federal system.
- [6] The aggravating circumstances are the fact that these offences occurred when Mr. Goff was in a position of trust and that the complainants are young children. I must also keep in mind the general purpose and principles of sentencing set out in Part XXIII of the Criminal Code, particularly ss. 718, 718.01, 718.1, and 718.2. Pursuant to s. 718.2(a), the fact that in committing the offences Mr. Goff abused persons under the age of 18 years and the fact that he was in a position of trust must be treated as aggravating circumstances. Moreover, pursuant to s. 718.01, since the offences involved the abuse of persons under the age of 18, primary consideration must be given to the objectives of denunciation and deterrence of such conduct.
- [7] I have read the victim impact statements that have been filed, which give powerful voice to the harm that Mr. Goff has done. Crown counsel has referred me to two cases, *R. v. Safaee*, 2009 BCCA 367, and *R. v. R.S.H.*, 2005 BCSC 927. Every case must, of course, be decided on the basis of its own particular facts. In this case, both the Crown and the defence make a joint submission for a sentence of 30 months. I am satisfied that a sentence of 30 months is within the appropriate range and is the appropriate sentence for these two offences. Mr. Goff has been on bail, and there is no pre-sentence custody to take into account.
- [8] Mr. Goff, I sentence you to 30 months imprisonment on Count 3 and 30 months concurrent on Count 5.
- [9] Pursuant to s. 109(1)(a) of the Criminal Code, a firearms prohibition order is mandatory. As this is your first conviction leading to such a prohibition, the order pursuant to s. 109 shall be for 10 years.
- [10] The Crown seeks an order under s. 487.051(1) of the Criminal Code for the provision of samples for DNA analysis. This is not opposed by the defence. There shall be an order under s. 487.051.

- [11] Finally, the Crown seeks an order under s. 490.012 of the Criminal Code requiring compliance with the Sex Offender Information Registration Act, S.C. 2004, c. 10. No submission has been made pursuant to s. 490.012(4) that the impact of such an order upon you would be grossly disproportionate to the public interest as set out in that section. There shall be an order that you comply with the Sex Offender Information Registration Act and the order applies for a period of 20 years.
- [12] Is there anything further?
- [13] MR. SOMMERFELD: No, My Lord.
- [14] MS. ELLIOTT: No, My Lord.
- [15] THE COURT: Now, Ms. Elliott, do you want me to endorse this order now?
- [16] MS. ELLIOTT: Yes, please. I also direct stays of proceeding on the outstanding counts.
- [17] THE COURT: All right, so that would be Counts 1, 2, 4, and 6. The Honourable Mr. Justice W. F. Ehrcke

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